

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 57

HOUSE BILL 2580

AN ACT

AMENDING SECTIONS 20-1562, 20-1575, 20-1580 AND 29-609, ARIZONA REVISED
STATUTES; RELATING TO TITLE INSURANCE AGENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1562, Arizona Revised Statutes, is amended to
3 read:

4 20-1562. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Abstract of title" means a written representation that is provided
7 pursuant to a written or oral contract that is intended to be relied on by
8 the person who has contracted for the receipt of the representation. The
9 abstract of title shall include all recorded conveyances, instruments or
10 documents that impart constructive notice with respect to the chain of title
11 to the real property described in the abstract. An abstract of title is not
12 a title insurance policy ~~as defined in paragraph 11.~~

13 2. "Applicants for insurance" shall be deemed to include all those,
14 whether or not prospective insureds, who from time to time apply to a title
15 insurer, or to its agent, for title insurance, and who at the time of such
16 application are not agents for such title insurer.

17 3. "Business of title insurance" shall be deemed to be:

18 (a) The making as insurer, guarantor or surety, or proposing to make
19 as insurer, guarantor or surety, of any contract or policy of title
20 insurance.

21 (b) The transacting OF, or proposing to transact, any phase of title
22 insurance, including solicitation, negotiation preliminary to execution,
23 execution of a contract of title insurance, insuring and transacting matters
24 subsequent to the execution of the contract and arising out of it, including
25 reinsurance.

26 (c) The doing OF, or proposing to do, any business in substance
27 equivalent to any of the foregoing.

28 4. "Net retained liability" means the total liability retained by a
29 title insurer under any policy or contract of insurance, or under a single
30 insurance risk as defined in or computed in accordance with paragraph 7,
31 after the purchase of reinsurance.

32 5. "Preliminary report", "commitment" or "binder" means a report that
33 is furnished in connection with an application for title insurance and that
34 offers to issue a title insurance policy subject to the stated exceptions
35 set forth in the report or incorporated by reference. The reports are not
36 abstracts of title and the rights, duties and responsibilities relating to
37 the preparation and issuance of an abstract of title do not apply to the
38 issuance of a report. The report is not a representation as to the condition
39 of title to real property but does constitute a statement of the terms and
40 conditions on which the issuer is willing to issue its title insurance policy
41 if the offer is accepted.

42 6. "Risk premium" for title insurance means that portion of the fee
43 charged by a title insurer, or agent of a title insurer, to an insured or to
44 an applicant for insurance, for the assumption by the title insurer of the
45 risk created by the issuance of the title insurance policy.

1 7. "Single insurance risk" means the insured amount of any policy or
2 contract of title insurance issued by a title insurer unless two or more
3 policies or contracts are simultaneously issued on different estates in
4 identical real property, in which event, it means the sum of the insured
5 amounts of all such policies or contracts, except that any such policy or
6 contract that insures a mortgage interest or a vendor's interest that is
7 excepted in a fee or leasehold policy or contract, and which does not exceed
8 the insured amount of such fee or leasehold policy or contract, shall be
9 excluded in computing the amount of a single insurance risk.

10 8. "Title insurance" means insuring, guaranteeing or indemnifying
11 owners of real property or others interested therein against loss or damage
12 suffered by reason of liens, encumbrances upon, defects in or the
13 unmarketability of the title to such property, guaranteeing, warranting or
14 otherwise insuring the correctness of searches relating to the title to real
15 property, or doing any business in substance equivalent to any of the
16 foregoing.

17 9. "Title insurance agent" means a domestic or foreign stock
18 corporation OR LIMITED LIABILITY COMPANY authorized in writing by a title
19 insurer to solicit insurance and collect premiums and to issue or countersign
20 policies in its behalf, except that the term "title insurance agent" shall
21 not include officers or salaried employees of any title insurer authorized
22 to do a title insurance business within this state.

23 10. "Title insurance plant" means a set of records in which an entry
24 has been made of all documents or matters which under the law impart
25 constructive notice of matters affecting title to real property or any
26 interest therein or encumbrance thereon and which have been filed or recorded
27 in the county for which such title plant is maintained for a period of not
28 less than the immediately preceding twenty years. In order to constitute a
29 title insurance plant such records shall include:

30 (a) An index or indices in which notations of or references to any
31 such documents that describe the property affected thereby are posted,
32 entered or otherwise included, according to the property described therein,
33 or copies or briefs of all such documents that describe the property affected
34 thereby which are sorted and filed according to the property described
35 therein.

36 (b) An index or indices in which all other such documents are posted,
37 entered or otherwise included, according to the name or names of the parties
38 whose title to real property or any interest therein or encumbrance thereon
39 is affected.

40 11. "Title insurance policy" means a written instrument or contract
41 by means of which title insurance liability is accepted.

42 12. "Title insurer" means any domestic company organized under the
43 provisions of this title for the purpose of insuring titles to real property,
44 any title insurance company organized under the laws of another state and
45 licensed to insure titles to real estate within this state pursuant to the

1 provisions of this article, and any domestic or foreign company having the
2 power and authorized to insure titles to real estate within this state as of
3 January 1, 1968 which meet the requirements of this article.

4 Sec. 2. Section 20-1575, Arizona Revised Statutes, is amended to read:

5 20-1575. Foreign title insurers; resident agent required

6 A. ~~No~~ A title insurer THAT IS not incorporated under the laws of this
7 state, but IS authorized to transact business herein, shall NOT make, write,
8 place or cause to be made, written or placed any policy or contract of
9 insurance covering real property in this state except:

10 1. Through an ~~incorporated~~ A title insurance agent as defined in
11 section 20-1562, ~~paragraph 9~~.

12 2. Through a bona fide branch office located in this state and under
13 the direction and control of such title insurer, all expenses of which branch
14 office, including compensation of all employees, are paid by such title
15 insurer.

16 3. Through a subsidiary title insurer.

17 B. This section ~~shall~~ DOES not be ~~applicable~~ APPLY to contracts of
18 reinsurance or excess coinsurance.

19 Sec. 3. Section 20-1580, Arizona Revised Statutes, is amended to read:

20 20-1580. Title insurance agents to be licensed

21 A. Title insurance agents shall be licensed by the director.
22 Application for license shall be made on forms approved by the director, and
23 the director shall issue a license upon completion and filing the application
24 and payment of the license fee specified in section 20-167.

25 B. Licenses of title insurance agents shall expire biennially at
26 midnight in each even-numbered year on the last day of the same month two
27 years after the license was issued or renewed unless sooner terminated by the
28 withdrawal by the insurer of authority in the agent, or unless revoked by the
29 director.

30 C. Title insurance agents' licenses shall be renewed biennially on the
31 filing of an application containing such information as the director deems
32 necessary.

33 D. The director may grant a temporary license to a corporation OR
34 LIMITED LIABILITY COMPANY THAT IS qualified for licensing as a title
35 insurance agent. Such THE license shall remain in force and effect for a
36 period of six months. ~~In the event of failure of~~ IF the applicant FAILS to
37 qualify for a regular title insurance agent's license as herein IN THIS
38 SECTION provided, no renewal or extension may be granted.

39 Sec. 4. Section 29-609, Arizona Revised Statutes, is amended to read:

40 29-609. Purpose; title insurance agent

41 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a limited
42 liability company may be organized under this chapter and may conduct or
43 promote business and other activities for any lawful purpose, except banking
44 or insurance.

1 B. A LIMITED LIABILITY COMPANY MAY CONDUCT BUSINESS AS A TITLE
2 INSURANCE AGENT AS DEFINED IN SECTION 20-1562. FOR THE PURPOSES OF TITLE
3 INSURANCE TRANSACTIONS ONLY, THE MEMBERS OF THE LIMITED LIABILITY COMPANY ARE
4 INDIVIDUALLY RESPONSIBLE, EQUALLY AND RATABLY, AND NOT ONE FOR ANOTHER, FOR
5 ALL CONTRACTS, DEBTS AND ENGAGEMENTS OF THE LIMITED LIABILITY COMPANY, TO THE
6 EXTENT OF THE AMOUNT OF EACH MEMBER'S INITIAL INVESTMENT IN THE LIMITED
7 LIABILITY COMPANY.

APPROVED BY THE GOVERNOR APRIL 6, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 6, 2001.



Passed the House March 6, 2001,

by the following vote: 57 Ayes,

1 Nays, 2 Not Voting

Jake Flake
Speaker of the House
Pro Tempore
Norman L. Fyfe
Chief Clerk of the House

Passed the Senate April 2, 2001,

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

Randall Smith
President of the Senate
Chasmin Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

3 day of April, 2001,

at 12:35 o'clock P M.

Sandra Chang
Secretary to the Governor

Approved this 6th day of

April, 2001,

at 10:00 o'clock A M.

Janice McShane
Governor of Arizona

H.B. 2580

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 6 day of April, 2001,

at 4:00 o'clock P M.

Robert Bayless
Secretary of State